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| CLERK U.S. DISTRICT COURT DISTRICT OF ARIZONA | |
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**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

United States of America,

CR 11-03745-TUC-DCB(JM)

Plaintiff,

v.

PLEA AGREEMENT

Eugene Patterson,

Defendant.

The United States of America and the defendant agree to the following disposition of this matter:

PLEA

The defendant agrees to plead guilty to the Indictment charging the defendant with a violation of Title 18, United States Code, Section 111(a)(1), Assault on a Federal Officer, a felony.

STIPULATIONS, TERMS AND AGREEMENTS

Maximum Penalties

A violation of 18 U.S.C. Section 111(a)(1) is punishable by a maximum term of 8 years, a fine of not more than \$250,000, a supervised release term of not more than three (3) years and a special assessment of \$100. The special assessment is due and payable at the time the defendant enters the plea of guilty, and must be paid by the time of sentencing unless the defendant is indigent. If the defendant is indigent, the special assessment will be collected according to Title 18, United States Code, Chapters 227 and 229.

Agreements Regarding Sentence

Pursuant to Rule 11(c)(1)(C), Fed. R. Crim. P., the government and the defendant stipulate and agree that the following is an appropriate disposition of this case:

~~6 to 12~~ ⁰⁰ months of imprisonment if defendant's Criminal History Category is III;

If the court departs from the terms and conditions set forth in this plea agreement, either party may withdraw.

If the Court, after reviewing this plea agreement, concludes any provision is inappropriate, it may reject the plea agreement under Rule 11(c)(5), Fed. R. Crim. P., giving the defendant, in accordance with Rule 11(d)(2)(A), Fed. R. Crim. P., an opportunity to withdraw the defendant's guilty plea.

Waiver of Defenses and Appeal Rights

The defendant waives any and all motions, defenses, probable cause determinations, and objections which the defendant could assert to the information, indictment, or to the petition to revoke, or to the Court's entry of judgment against the defendant and imposition of sentence upon the defendant providing the sentence is consistent with this agreement. The defendant further waives: (1) any right to appeal the Court's entry of judgment against defendant; (2) any right to appeal the imposition of sentence upon defendant under Title 18, United States Code, Section 3742 (sentence appeals); and (3) any right to collaterally attack defendant's conviction and sentence under Title 28, United States Code, Section 2255, or any other collateral attack. The defendant acknowledges that this waiver shall result in the dismissal of any appeal or collateral attack the defendant might file challenging his/her conviction or sentence in this case. If the defendant files a notice of appeal, or a habeas petition, notwithstanding this agreement, defendant agrees that this case shall, upon motion of the government, be remanded to the district court to determine whether defendant is in breach of this agreement and, if so, to permit the government to withdraw from the plea agreement.

Reinstitution of Prosecution

Nothing in this agreement shall be construed to protect the defendant in any way from prosecution for perjury, false declaration or false statement, or any other offense committed by the defendant after the date of this agreement. In addition, if the defendant commits any criminal offense between the date of this agreement and the date of sentencing, the government will have the right to withdraw from this agreement. Any information, statements, documents and evidence which the defendant provides to the United States pursuant to this agreement may be used against the defendant in all such proceedings.

If the defendant's guilty plea is rejected, withdrawn, vacated, or reversed by any court in a later proceeding, the government will be free to prosecute the defendant for all charges and/or allegations of supervised release violations as to which it has knowledge, and any charges and/or allegations of supervised release violations that have been dismissed or not alleged because of this plea agreement will be automatically reinstated. In such event, the defendant waives any objections, motions, or defenses based upon the Speedy Trial Act or the Sixth Amendment to the Constitution as to the delay occasioned by the later proceedings. Defendant agrees that the stipulated sentencing ranges set forth under "Agreements Regarding Sentence" will not be offered if prosecution is re-instituted.

Disclosure of Information to U.S. Probation Office

The defendant understands the government's obligation to provide all information in its file regarding the defendant to the United States Probation Office. The defendant fully understands and agrees to cooperate fully and truthfully with the United States Probation Office in providing all information requested by the probation officer.

Effect of Other Proceedings

This agreement does not preclude the United States from instituting any civil or administrative proceedings as may be appropriate now or in the future.

1 The defendant understands that if the defendant violates any of the conditions of the
2 defendant's supervised release, the supervised release may be revoked. Upon such
3 revocation, notwithstanding any other provision of this agreement, the defendant may be
4 required to serve a term of imprisonment or the defendant's sentence may otherwise be
5 altered.

6 Plea Addendum.

7 The United States may file a Plea Addendum in this case, even though there may or
8 may not be any additional terms. Defendant and defendant's attorney acknowledge that no
9 threats, promises or representations exist beyond the terms of this plea agreement.

10 WAIVER OF DEFENDANT'S RIGHTS

11 I have read each of the provisions of the entire plea agreement with the assistance
12 of counsel and understand its provisions. I have discussed the case and my constitutional
13 and other rights with my attorney. I understand that by entering my plea of guilty I will be
14 giving up my right to plead not guilty; to trial by jury; to confront, cross-examine, and
15 compel the attendance of witnesses; to present evidence in my defense; to remain silent and
16 refuse to be a witness against myself by asserting my privilege against self-incrimination;
17 all with the assistance of counsel, to be presumed innocent until proven guilty beyond a
18 reasonable doubt, and to appeal.

19 I agree to enter my guilty plea as indicated above on the terms and conditions set
20 forth in this agreement.

21 I have been advised by my attorney of the nature of the charge to which I am
22 entering my guilty plea. I have further been advised by my attorney of the nature and range
23 of the possible sentence.

24 My guilty plea is not the result of force, threats, assurance or promises other than the
25 promises contained in this agreement. I agree to the provisions of this agreement as a
26 voluntary act on my part, rather than at the direction of or because of the recommendation
of any other person, and I agree to be bound according to its provisions.

1 I agree that this written plea agreement contains all the terms and conditions of my
2 plea and that promises made by anyone (including my attorney) that are not contained
3 within this written plea agreement are without force and effect and are null and void.

4 I am satisfied that my defense attorney has represented me in a competent manner.

5 I am not now on or under the influence of any drug, medication, liquor, or other
6 intoxicant or depressant, which would impair my ability to fully understand the terms and
7 conditions of this plea agreement.

8 ELEMENTS OF THE 111(a)(1) OFFENSE

- 9 1. The defendant did intentionally and forcibly assault a federal employee.
- 10 2. The defendant did so while the federal employee was engaged in the
11 performance of her official duties.
- 12 3. Further, the act involved physical contact.

13 FACTUAL BASIS AND SENTENCING FACTORS

14 I agree that the following facts accurately describe my conduct in connection with
15 the offense to which I am pleading guilty and that if this matter were to proceed to trial the
16 government could prove these facts beyond a reasonable doubt:
17

18 On or about September 26, 2011, at or near Tucson, in the District of Arizona, I
19 intentionally and forcibly assaulted United State Penitentiary Discipline Hearing
20 Officer Vickie Petricka, by spitting in her face. Vickie Petricka was an employee
21 of the United States or any agency thereof, and engaged in the performance of her
22 official duties. At the hearing, she ruled that I was going to receive a 14 day
23 sanction for stealing a piece of chicken. I then intentionally spat in her face.

24 11-19-12
25 Date

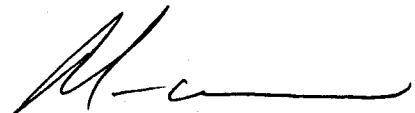
26 Eugene Patterson, pro se
Defendant

27 DEFENSE ATTORNEY'S APPROVAL

28 I have discussed this case and the plea agreement with my client in detail and have
29 advised the defendant of all matters within the scope of Rule 11, Fed. R. Crim. P., the
30 constitutional and other rights of an accused, the factual basis for and the nature of the

1 offense to which the guilty plea will be entered, possible defenses, and the consequences
 2 of the guilty plea, including the defendant's waiver of the right to appeal. No assurances,
 3 promises, or representations have been given to me or to the defendant by the government
 4 or by any of its representatives which are not contained in this written agreement. I concur
 5 in the entry of the plea as indicated above and on the terms and conditions set forth in this
 6 agreement as in the best interests of my client. I agree to make a bona fide effort to ensure
 7 the guilty plea is entered in accordance with all the requirements of Rule 11, Fed. R. Crim.
 8 P.


10 11-19-12
 11 Date


 12 Matthew Davidson
 13 Stand by Counsel for Defendant

14 GOVERNMENT'S APPROVAL

15 I have reviewed this matter and the plea agreement. I agree on behalf of the United
 16 States that the terms and conditions set forth are appropriate and are in the best interests of
 17 justice.

20 11/19/12
 21 Date

18 John S. Leonardo
 19 United States Attorney
 District of Arizona

 22 ANN L. DEMARAIS
 23 Assistant U.S. Attorney
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 25
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